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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/777,946	02/06/2001	Hideo Kawahara	1232-4680	3252
27123	7590	08/25/2005	EXAMINER	
MORGAN & FINNEGAN, L.L.P. 3 WORLD FINANCIAL CENTER NEW YORK, NY 10281-2101			VIEAUX, GARY	
			ART UNIT	PAPER NUMBER
			2612	

DATE MAILED: 08/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/777,946

Applicant(s)

KAWAHARA, HIDEO

Examiner

Gary C. Vieaux

Art Unit

2612

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 May 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,10-12,19-22,27-32,35 and 36 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,10-12,19-22,27-32,35 and 36 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 September 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on May 26, 2005, has been entered.

Amendment

In response to the Office Action of January 27, 2005, claims 1, 12, 21, 31, 32, 35, and 36 have been amended. Claims 2-9, 13-18, and 23-26 have been previously cancelled. Claims 33-34 37-38 have been previously withdrawn as being directed to a non-elected invention (See 37 CFR 1.142(b) and MPEP § 821.03.)

Response to Amendment

Claim 22 was amended to correct misspelling of the word degree as "degeree". Therefore, the objection to claim 22 is hereby withdrawn.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

5 (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10 **Claims 1, 10-12, 19-22, 31, 32, 35 and 36** are rejected under 35 U.S.C. 103(a) as being unpatentable over Steinberg (US 6,151,073) in view of Boyack et al. (US 5,724,456.)

Regarding claim 1, Steinberg discloses an apparatus comprising (A) a photometric unit for receiving object light and converting the object light into luminance
15 signals of a plurality of areas (col. 5 lines 10-15), and (B) a control unit for calculating a histogram of a luminance distribution on the basis of the luminance signals of the plurality of areas converted by said photometric unit (col. 5 lines 33-37.) However, although Steinberg also discloses apparatus operation in response to a rate that a predetermined luminosity level occupies exceeding a reference point in a pattern of the
20 calculated histogram (col. 10 lines 6-14) as well as a resulting light emission (fig. 3 indicators 84, 92 and 98), Steinberg is not found to disclose an apparatus in which the control unit controls a light emission of an illumination device on the basis of luminance signals obtained by excluding luminance signals of predetermined luminance levels from the luminance signals.

25 Nevertheless, In addition to teaching a center-weighted approach to luminance analysis (col. 8 line 45 – col. 9 line 31) similar to that of Steinberg (col. 8 lines 33-38),

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Boyack is found to teach luminance analysis in which a luminance signal is obtained by excluding luminance signals of predetermined luminance levels from luminance signals (col. 9 lines 32-41.) It would have been obvious to combine the apparatus of Steinberg and the basis of control of its resulting light emission, with the exclusion of luminance signals based on a luminance threshold as taught by Boyack for the purpose of correcting very high contrast scenes which include over-threshold activities that add to the high luminance end of the histogram, and which cause images which are too dark ('456 – col. 9 lines 32-36.)

Regarding claim 10, Steinberg and Boyack are found to disclose all of the limitations of claim 10 (see the 103(a) rejection to claim 1 supra), including wherein said apparatus includes an image sensing apparatus ('073 – col. 6 lines 59-61.)

Regarding claim 11, Steinberg and Boyack are found to disclose all of the limitations of claim 11 (see the 103(a) rejection to claim 1 supra), including wherein said apparatus includes a camera ('073 – col. 2 lines 29-30.)

Regarding claims 12, 21, 22, 31, 32, 35 and 36, although the wording is different, the material is considered substantively equivalent to claim 1, as discussed above.

Regarding claims 19 and 20, although the wording is different, the material is considered substantively equivalent to claims 10 and 11, respectively, as discussed above.

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Claims 27-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Steinberg et al. (US 6,151,073) in view of Boyack et al. (US 5,724,456), in further view of Heard (US 4,671,655.)

Regarding claim 27, Steinberg and Boyack teach all the limitations of claim 27 (see the 103(a) rejection to claim 1 supra) except teaching wherein the histogram is generated on the basis of signal levels of red signal, blue signal and green signal that are obtained by decomposing a sensed image signal.

One of ordinary skill in the art of illumination control, when faced with the problem of achieving proper exposure by means of histogram information, would look to the solutions of others faced with similar problems. One such solution is presented by Heard. Heard teaches generation of a histogram on the basis of signal levels of red signal, blue signal and green signal that are obtained by decomposing a sensed image signal (col. 2 lines 58-64.) It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the color based histogram as taught by Heard, with the apparatus as taught by Steinberg and Boyack, in order to effect appropriate illumination by increasing information employed in the decision process, i.e., using the three luminance signals relating to the colors to be imaged, instead of merely using a single luminance input measurement.

Regarding claims 28, 29 and 30, although the wording is different, the material is considered substantively equivalent to that of claim 27, with deference given to the particular dependence derived from claims 12, 21 and 22, respectively, as discussed above.

Contact

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gary C. Vieaux whose telephone number is 571-272-

5 7318. The examiner can normally be reached on Monday - Friday, 8:00am - 4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thai Q. Tran can be reached on 571-272-7382. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent
10 Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business
15 Center (EBC) at 866-217-9197 (toll-free).

Gary C. Vieaux
Examiner
Art Unit 2612

Gcv2

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THAI TRAN
PRIMARY EXAMINER